

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FALCON DRILLING LLC,

Plaintiff,

v.

Case No. 2:21-cv-4316

JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Kimberly A. Jolson

OMNI ENERGY GROUP LLC, et al.,

Defendant.

**ORDER**

This matter is before the Court for consideration of (1) the Report and Recommendation issued by the Magistrate Judge on October 28, 2021 (the “First Report”), (ECF No. 17), and (2) the Report and Recommendation issued by the Magistrate Judge on November 30, 2021 (the “Second Report”). (ECF No. 20.) Neither party objected to the First or Second Report in the timeframe provided by 28 U.S.C. § 636(b)(1).

The Court agrees that (1) remand of this case under the “forum defendant” rule is proper; and (2) pursuant to 28 USC § 1447(c), Plaintiff should be awarded “just costs and ... actual expenses, including attorney fees, incurred as a result of the removal.” (*See* ECF No. 17.) Thus, it **ADOPTS** those findings. (*See* ECF No. 17.)

The Court also believes that, before fully ruling on Plaintiff’s § 1447(c) fee request, further mediation is appropriate. To that end, the Court **ORDERS** as follows:

1. The Court, notwithstanding its remand of this case, shall maintain limited jurisdiction to rule on the parties’ § 1447(c) fee dispute. *See Stallworth v. Greater Cleveland Reg’l Transit Auth.*, 105 F.3d 252, 257 (6th Cir. 1997) (holding that “a district court, after issuing an order of remand, may make an award of attorney fees and costs in a separate order”).
2. The parties shall engage in one mediation session to resolve the specific amount of

attorney's fees and costs that shall be awarded to Plaintiff pursuant to § 1477(c).

3. The Court **DESIGNATES** Attorney Charles Bean of St. Clairsville, Ohio to lead said mediation.
4. The parties shall contact Attorney Bean within **FIVE DAYS** of the date that this Order is issued so that an agreeable mediation date can be ascertained.
5. The parties shall file a report on the status of their fee dispute within **SEVEN DAYS** of their mediation session. The report shall include a short statement of whether the parties were able to come to an agreement during mediation, and, if so, the agreed-upon fee amount. If the parties cannot come to an agreement, they shall include a short statement of their final fee positions, which shall not exceed one paragraph. No further briefing on the matter will be permitted.

Accordingly, the Court **GRANTS IN PART** Plaintiff's Motion to Remand and **RESERVES JUDGMENT** on the parties' § 1447(c) fee dispute. (ECF No. 10.) The Clerk is **DIRECTED** to remand this case to the Belmont County Court of Common Pleas and close it on the docket of this Court.

**IT IS SO ORDERED.**

2/15/2022  
DATE

s/Edmund A. Sargus, Jr.  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**